F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting 18 total days that will prohibit entry within a portion of the Potomac River. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05–0650 to read as follows:

§ 165.T05–0650 Safety Zone; Potomac River, Between Charles County, MD and King George County, VA.

(a) *Location.* The following area is a safety zone: All navigable waters of the Potomac River, encompassed by a line connecting the following points beginning at 38°21′50.96″ N, 076°59′22.04″ W, thence south to 38°21′43.08″ N, 076°59′20.55″ W, thence west to 38°21′41.00″ N, 076°59′34.90″ W, thence north to 38°21′48.90″ N, 076°59′36.80″ W, and east back to the beginning point, located between Charles County, MD and King George County, VA. These coordinates are based on datum NAD 83.

(b) *Definitions.* As used in this section—

Captain of the Port (COTP) means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region.

Designated representative means any Coast Guard commissioned, warrant, or petty officer, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Maryland-National Capital Region (COTP) in the enforcement of the safety zone.

Marine equipment means any vessel, barge or other equipment operated by Skanska-Corman-McLean, Joint Venture, or its subcontractors.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by telephone number 410–576–2693 or on Marine Band Radio VHF–FM channel 16 (156.8 MHz). Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement officials.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(e) *Enforcement.* This safety zone will be enforced during the period described in paragraph (f) of this section. A ''BRIDGE WORK—DANGER—STAY AWAY'' sign facing the northern and southern approaches of the navigation channel will be posted onthe sides of the marine equipment on-scene within the location described in paragraph (a) of this section.

(f) *Enforcement period.* This section will be enforced from 7 a.m. on August 23, 2021, through 8 p.m. on September 11, 2021.

Dated: August 17, 2021.

David E. O'Connell,

Commander, U.S. Coast Guard, Captain of the Port Sector Maryland-National Capital Region.

[FR Doc. 2021–17978 Filed 8–20–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Parts 674, 682 and 685

[Docket ID ED–2019–FSA–0115]

RIN 1840–AD48

Total and Permanent Disability Discharge of Loans Under Title IV of the Higher Education Act

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Final regulations.

SUMMARY: The Department of Education (Department) adopts as final regulations, with changes, the interim final regulations for total and permanent disability (TPD) student loan discharge.

DATES:

Effective date: These regulations are effective July 1, 2022.

Implementation date: For the implementation date of these regulatory changes, see the Implementation Date of These Regulations section of this document.

FOR FURTHER INFORMATION CONTACT: Jennifer M. Hong, Director, Policy Coordination Group, U.S. Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW, Washington, DC 20202–2241. Telephone: (202)453–7805. Email: *jennifer.hong@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll-free, at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Purpose of This Regulatory Action: On November 26, 2019, the Department published in the **Federal Register** (84 FR 65000) an interim final rule (IFR) to amend and update the regulations for TPD student loan discharge for veterans by removing administrative burdens that may have prevented at least 20,000 totally and permanently disabled veterans from obtaining discharges for their student loans. These final regulations adopt and amend the regulations established in the IFR as further described below. These regulations do not address the process of obtaining a TPD student loan discharge through the physician's certification process.

Summary of Major Provisions of This Regulatory Action:

These regulations—

- Expand the automatic discharge process to borrowers who are eligible for TPD loan discharge through their SSA data. Borrowers who qualify for TPD through Social Security Administration (SSA) data are those who are eligible for Social Security Disability Insurance (SSDI) and/or Supplemental Security Income (SSI) benefits and whose next scheduled disability review is no earlier than five nor later than seven years;

- Clarify that borrowers determined to be eligible for a TPD discharge based on data that the Secretary obtains from the Department of Veterans Affairs (VA) or the SSA are not required to submit a TPD application to have their Federal student loans discharged;
- Describe the process by which the Secretary will automatically discharge the Federal student loans of a borrower who is determined to be eligible for a TPD discharge based on data obtained from either VA or the SSA, unless the borrower notifies the Secretary by a specified date that the borrower does not wish to receive the discharge;
- Specify the contents of the notice the Secretary sends to borrowers who are determined to be eligible for a TPD discharge based on data that the Secretary obtains from VA or from the SSA; and
- Provide for the return of payments to the person who made payments on the loan on or after the effective date of the determination by VA or SSA for borrowers who receive the automatic TPD discharge.

Authority for this Regulatory Action: Section 410 of the General Education Provisions Act provides the Secretary with authority to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of operations of, and governing the applicable programs administered by, the Department. 20 U.S.C. 1221e–3. Furthermore, under section 414 of the Department of Education Organization Act, the Secretary is authorized to prescribe such rules and regulations as the Secretary determines necessary or appropriate to administer and manage the functions of the Secretary or the Department. 20 U.S.C. 3474. Under 20 U.S.C. 1087(a)(1)(FFEL), 20 U.S.C. 1087a(b)(2)(Direct Loans), and 20 U.S.C. 1087dd(c)(1)(F)(ii)(Perkins), the Department has authority to cancel or discharge certain loans due to a total and permanent disability.

Costs and Benefits: Veterans and recipients of SSDI and/or SSI benefits who qualify for a TPD discharge will benefit from these final regulations. Qualifying veterans and recipients of SSDI and/or SSI benefits will be relieved of a financial burden related to Federal student loans, including the stress associated with repayment or potential defaults and collections. This final rule should result in a quicker, more efficient process and many more qualified borrowers receiving the discharge to which they are legally entitled. In addition, the paperwork burden will be reduced as no application will be needed for borrowers who qualify for an automatic TPD discharge.

Implementation Date of These Regulations: Section 482(c) of the HEA requires that regulations affecting programs under title IV of the HEA be published in final form by November 1, prior to the start of the award year (July 1) to which they apply. However, that section also permits the Secretary to designate any regulation as one that an entity subject to the regulations may choose to implement earlier, as well as the conditions of early implementation.

The Secretary is exercising his authority under section 482(c) of the HEA to designate the regulatory changes to parts 674, 682, and 685 of the Code of Federal Regulations included in this document for early implementation effective September 30, 2021. The Secretary takes this action for the reasons set forth in the Summary, Background, and Need for Regulatory Actions sections included in this document.

Public Comments: When the IFR was published in the **Federal Register** on November 26, 2019 (84 FR 65000), the Department requested public comment on whether we should make any changes to the interim final regulations. We received 18 comments. The final regulations include changes from the IFR.

We group major issues according to subject, with appropriate sections of the regulations referenced in parentheses. We discuss other substantive issues under the sections of the regulations to which they pertain. Generally, we do not address minor, non-substantive changes, or recommended changes that the law does not authorize the Secretary to make.

Analysis of Comments and Changes: An analysis of the comments and of the changes in the regulations since publication of the IFR follows.

General Comments

Comments: Commenters were generally supportive of the provision added by the IFR stating that veterans who are identified as eligible for TPD discharge based on data that the Secretary obtains from VA are not required to provide any additional documentation to have their loans automatically discharged, noting it reduces burden on disabled veterans. Several commenters explained that many disabled veterans lack a supportive caregiver who can assist them in the application process and ensure that they understand the implications of not having their Federal student loans discharged. The commenters further noted that many veterans who received letters notifying them that they were eligible for discharge, and that to receive the discharge they needed only to sign and submit a TPD discharge application, failed to subsequently submit an application. These commenters stated that these veterans are clearly eligible for the discharge, and they are pleased that the Department is making it easier for them to have their loans discharged.

Discussion: We thank the commenters for their support. We note that the IFR, which provided that veterans identified as TPD based on data obtained from VA are not required to submit additional documentation to have their loans discharged, may not have made it sufficiently clear that ''additional documentation'' meant a TPD discharge application. Therefore, we are clarifying this point in the final regulations.

Changes: In final §§ 674.61(d), 682.402(c)(10), and 685.213(d), we have clarified that a borrower who qualifies for a TPD discharge based on data obtained from VA or from the SSA is not required to submit a TPD application, or any other documentation of eligibility for discharge.

Comments: One commenter expressed concern that the automatic discharge process was paused because the regulations that were previously in effect required borrowers to submit a discharge application. Another commenter asked that the Department provide a copy of the Office of Management and Budget memo that determined rulemaking was required before the Department could discharge veterans' loans without an application.

Discussion: As we explained in the IFR, former Secretary Betsy DeVos exercised her authority under section 482(c) of the Higher Education Act of 1965, as amended (HEA), to designate the regulatory changes to parts 674, 682, and 685 of the Code of Federal Regulations, as reflected in the IFR, for early implementation effective immediately. Accordingly, the automatic TPD discharge process for veterans identified as eligible for discharge based on data obtained from VA was implemented immediately upon publication of the IFR.

We have forwarded the request for the Office of Management and Budget memo to the Department's Freedom of Information Act (FOIA) Service Center. All FOIA requests made to the

Department are handled by the Department's FOIA Service Center.

Changes: None.

Comment: One commenter suggested that VA should be more involved in communicating to veterans regarding the discharge process. The commenter was concerned that some veterans might think the discharge letter was "too good to be true" since it was not something they had asked for. The commenter stated that if VA were more involved in the process, it might be able to confirm the validity of the letter and assist veterans in understanding the ramifications of allowing the discharge to go forward versus opting out of the discharge.

Discussion: The Department plans to work closely with VA in implementing these regulations. However, we believe that the notification of eligibility for the TPD discharge should come from the Department, not VA. The notification relates to student loan programs administered by the Department, not to any VA benefit program. If a borrower has questions about the notification, the borrower should contact the Department, not VA.

Changes: None.

Opt-Out Provision (§§ 674.61(e)(1), 682.402(c)(11)(i), 685.213(e)(1))

Comment: One commenter was concerned that the automatic discharge process could harm a veteran who is enrolled in school and obtaining loans and recommended that the Department include the opt-out provision discussed in the preamble to the IFR.

Another commenter urged the Department to consider the moral hazard of lending to a borrower who has been deemed unable to work prior to or concurrent with enrollment.

Discussion: As suggested by the first commenter, a veteran who is enrolled in school and receiving loans might wish to opt out of the automatic discharge so that the veteran could continue receiving loans without having to meet the additional eligibility requirements that apply to borrowers seeking new loans after having previously received a TPD discharge of earlier loans. We agree with the first commenter that we should include the opt-out provision in the regulatory language.

We do not agree with the commenter who suggested that providing an opt-out provision creates a moral hazard that is sufficiently worrisome to outweigh the benefits of providing automatic discharges. As noted in the Regulatory Impact Analysis the opt out rate for borrowers identified through the VA process was just four percent through the two rounds of discharges processed since September 2019. This suggests the opt out is used in rare circumstances and is not a widespread practice that would indicate a significant moral hazard. Veterans who qualify for automatic TPD discharges, as well as recipients of SSDI and/or SSI benefits, should have the ability to decline the discharge without fear that declining the discharge will affect their ability to continue to obtain Federal student loans.

Changes: In §§ 674.61(e)(1), 682.402(c)(11)(i), and 685.213(e)(1), we have specified that the notification to a borrower of eligibility for an automatic TPD discharge informs the borrower that the borrower may opt out of the discharge. We have revised §§ 674.61(e)(5), 682.402(c)(11)(vii), and 685.213(e)(3) to clarify that, if borrowers choose not to receive the automatic TPD discharge, they remain responsible for repaying the loan in accordance with the terms and conditions of the promissory note that the borrower signed.

Post-Discharge Monitoring Period

Comments: One commenter urged the Department to make it clear to borrowers that if they accept the TPD discharge, there will be a monitoring period that may prevent the borrower from receiving loans in the immediate future, and that these borrowers would need a physician's certification if they are going to use loans to return to school.

Discussion: For TPD discharges based on a disability determination from VA, there is no post-discharge monitoring period. 20 U.S.C. 1087(a)(2). However, under §§ 674.9(g)(1) and (2), 682.201(a)(6)(i) and (ii), and 685.200(a)(1)(iv)(A)(*1*) and (*2*), once borrowers' loans have been discharged due to TPD, they cannot obtain additional Federal student loans unless the borrower (1) obtains a certification from a physician that the borrower is able to engage in substantial gainful activity; and (2) signs a statement acknowledging that any new loan the borrower receives cannot be discharged in the future on the basis of any impairment present when the new loan is made, unless that impairment substantially deteriorates. This information is included in the notice that is sent to veterans informing them that they qualify for a TPD discharge based on data obtained from VA.

For borrowers who receive discharges based on SSA disability determinations, §§ 674.61(b)(3)(iv), 682.402(c)(3)(iv), and 685.213(b)(4)(iii) provide that the notification the borrower receives after the discharge has been granted explain the terms and conditions of the post-discharge monitoring period. The notice also includes the requirements for obtaining a new loan discussed above.

Changes: None.

Defaulted Borrowers

Comments: Commenters noted that the loans of many veterans who qualify for a TPD discharge are in default. The commenters asserted that in some cases the loans were wrongly placed in default, because the borrower met the eligibility criteria for a TPD discharge at the time the loan was placed in default.

Discussion: It is possible that some veterans who defaulted on their loans may have qualified for TPD discharge if they had submitted a discharge application. However, the Department would not have known at the time the loans defaulted that the veterans with loans described in this example were eligible for a TPD discharge. Prior to the implementation of the process that enables the Department to identify borrowers who are determined to be eligible for TPD discharge based on data obtained from VA, the Department and loan servicers had no means of knowing that a disabled veteran qualified for discharge unless the borrower submitted a TPD discharge application. If such a borrower became delinquent in making payments on a loan, and did not apply for forbearance, deferment, or discharge, or take other actions to resolve the delinquency, the loan would eventually be placed in default, in accordance with the terms and conditions of the promissory note that the borrower signed. Preventing this situation is a major reason the Department automated the process of discharges without the need for an application. The automated process will seek to avoid such an outcome for a borrower who is eligible for a TPD discharge.

Changes: None.

Return of Offset or Garnished Funds

Comments: Commenters asked that any offsets from a defaulted borrower's benefits that were taken to pay on their defaulted loans be returned to them, and their credit reports updated, if the borrower receives an automatic TPD discharge.

Discussion: Any payments received on or after the effective date of VA's disability determination or the date the Secretary received disability data from the SSA are returned to the person who made the payments. This includes any payments that were obtained through offsets.

Section 674.61(c)(4)(ii) requires a school that holds a Perkins Loan to return the payments. Section

682.402(c)(10)(vii) requires a FFEL lender to return payments after the guaranty agency has paid a disability claim. Section 685.213(b)(4)(ii) and (c)(2)(i) provides for the return of payments for Direct Loans.

The discharge of a loan is also reported to nationwide consumer reporting agencies.

Changes: None.

Tax Implications

Comments: One commenter asked that the Department take additional action to ensure that veterans are counseled regarding which States treat loan amounts discharged due to TPD as taxable income.

Discussion: The letter informing borrowers that they are eligible for discharge explains that, although loan amounts discharged due to TPD are no longer considered taxable income for Federal tax purposes, some States still consider discharged loan amounts as income. The letter recommends that borrowers scheduled to receive a TPD discharge contact their State revenue office or a tax professional before deciding to accept or opt out of the TPD discharge.

Changes: None.

Deregulatory Action

Comment: One commenter asked why the IFR was not treated as a significant regulatory action under Executive Order (E.O.) 13771, which requires that for every significant regulatory action proposed by an agency for notice and comment or otherwise promulgated that imposes a cost greater than zero, the agency must repeal two regulatory actions.

Discussion: On January 20, 2021, President Joseph Biden issued E.O. 13992, which revoked E.O. 13771, so the terms of E.O. 13771 no longer apply. Regardless, the Department identified the IFR as a deregulatory action because it eliminates a regulatory requirement: In this case, the requirement that a disabled veteran submit an application for a TPD discharge.

Changes: None.

Automatic Discharges for Borrowers With SSA Disability Designations

Comments: Several commenters supported the Department's implementation of automatic TPD discharges for disabled veterans and asked that the Department also allow for automatic TPD discharges for borrowers who are identified as eligible for a TPD discharge through the existing data match with SSA.

Discussion: We agree. Under §§ 674.61(b)(2)(iv), 682.402(c)(2)(iv), and 685.213(b)(1), these borrowers are eligible to receive a loan discharge but are currently required to submit an application before they may receive the discharge. Eliminating the application requirement for borrowers who are identified as eligible for a TPD discharge through the data match with SSA, so they can receive an automatic discharge, is a logical extension of the IFR. The rationale for providing borrowers with a TPD discharge based on a disability determination by VA obtained through a data match, thereby eliminating unnecessary documentation burdens on individuals determined by a government agency to qualify for a TPD discharge, applies equally to individuals who qualify for TPD discharge based on a disability determination by the SSA as obtained through a data match.

The object of the logical outgrowth standard ''is one of fair notice.'' *Long Island Care at Home, Ltd.* v. *Coke,* 551 U.S. 158, 174 (2007). The standard is well described in *Mid Continent Nail Corp.* v. *United States,* 846 F.3d 1364, 1373–76 (Fed. Cir. 2017), which states that ''a final rule is a logical outgrowth of a proposed rule only if interested parties should have anticipated that the change was possible, and thus reasonably should have filed their comments on the subject during the notice-and-comment period.'' *Id.* at 1373 (quoting *Veteran's Justice Grp., L.L.C.* v. *Sec'y of Veterans Affairs,* 818 F.3d 1336, 1344 (Fed. Cir. 2016)). The Federal Circuit indicated that the logical outgrowth standard is very broad, implying that it would even allow the removal of ''critical elements'' of rules so long as the NPRM contains ''the merest hint'' of the agency's actions in the final rule. *See id.* at 1374, 1376.

As supported by public comment on the IFR requesting this expansion of the automatic TPD discharge, the public could reasonably have anticipated that the final rule would apply to borrowers who are identified as eligible for a TPD discharge through the data match with SSA. The position taken in this final rule—expanding the automatic TPD discharge to apply to these borrowers—is consistent with and responsive to public comment, including comments from several U.S. Senators, a State Attorney General, legal aid societies, and other non-governmental organizations. The number of comments, the diversity of the commenters, and the universal support for this expansion all demonstrate that this rule is a logical outgrowth of the IFR.

Changes: In §§ 674.61(d)(1)(ii), 682.402(c)(10)(i)(B), and 685.213(d)(1)(ii), we have provided that a borrower who is identified as eligible for TPD discharge through the data match with SSA does not need to submit a TPD application as a condition of receiving a loan discharge.

Additional Proposals

Comments: Some commenters suggested that all veterans with a service-related disability should have their loans discharged. One commenter recommended that student loans for all veterans be paid or forgiven, not just veterans who are totally and permanently disabled. Another commenter recommended that all veterans with a disability should qualify for a TPD discharge, regardless of whether their disability is service-connected.

Two commenters stated that veterans who have never been deployed can receive a 100 percent disability rating from VA. These veterans would qualify for TPD, while veterans who were deployed, but who are less than 100 percent disabled, would not qualify. This commenter believed that veterans who have not been deployed should not have priority over veterans who were deployed.

One commenter recommended eliminating the post-discharge monitoring period for all TPD discharge borrowers.

Discussion: The statutory section authorizing a TPD discharge for veterans does not take a veteran's deployment status into account and, therefore, deployment status has no bearing on whether a student loan is discharged. In addition, the Department does not have the statutory authority to grant a TPD discharge to a veteran who is not totally and permanently disabled. A veteran who is totally and permanently disabled, but whose disability is not service connected, may receive a TPD discharge under the other TPD discharge processes, which require either an SSA disability determination or a physician's certification.

There is no post-discharge monitoring period for borrowers who received TPD discharges based on VA disability determinations. Because the IFR only addressed automatic TPD discharges for veterans for whom there are no post-discharge monitoring periods, any changes to the post-discharge monitoring periods for other recipients of TPD discharges are outside the scope of this final rule. However, the Department has heard from the public on ways to improve the rules governing total and permanent disability discharge and may consider these policies through upcoming negotiated rulemaking. See 86 FR 28299 (May 26, 2021).

Changes: None.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Office of Management and Budget (OMB) must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by OMB. Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

These final regulations, taken together with the IFR, are an economically significant action and will have an annual effect on the economy of more than $100 million because the changes to an opt-out process for borrowers identified as TPD eligible through the data matches with VA and SSA are expected to increase transfers from the Federal Government as more loans are discharged by $1,685.8 million when annualized at a seven percent discount rate. Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as a ''major rule,'' as defined by 5 U.S.C. 804(2).

We have also reviewed these final regulations and the IFR under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account, among other things, and to the extent practicable, the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or providing information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

The Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action, and we issued the IFR, and are issuing these final regulations, in response to the pressing need for, and manifest public interest in, deregulatory relief from bureaucratic burdens that have denied tens of thousands of veterans who are totally and permanently disabled, due to service-related injuries, student loan discharges for which they are eligible. Individuals who SSA has determined to be disabled have faced similar burdens and hurdles. The harm caused to our veterans, other disabled individuals, and to the public interest by the application process is significant and widely recognized. See Presidential Memorandum at 44677; S. Rep. No. 115–150, at 182. Based on this analysis and the reasons stated in the preamble, the Department believes that these final regulations are consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, or Tribal governments in the exercise of their governmental functions.

Need for Regulatory Action

The HEA provides that veterans who are totally and permanently disabled are eligible to have their Federal student loans discharged. Prior to the IFR, once determined by the Secretary of Veterans Affairs to be totally and permanently disabled due to a service-connected condition, the veteran was required to obtain documentation of that status from VA and provide it to the Secretary of Education, along with an application for total and permanent disability discharge, in order to receive the discharge of their student loans. Similarly, borrowers who are identified as eligible for a TPD discharge through the data match with SSA had to submit an application to the Department in order to receive the discharge.

However, now that the Department has data sharing agreements with VA and SSA in place, the Department obtains all of the information it needs directly from those two agencies to discharge loans. This makes the submission of the TPD application to the Department an unnecessary and burdensome step for both groups of borrowers. Consequently, the President and Congress have asked the Department to ensure that individuals who have received a qualifying disability determination from SSA or VA receive all benefits the law allows with as little burden on the borrower as possible. Under the IFR and this final rule, individuals who have received a qualifying disability determination from SSA or VA only need to contact the Department if they choose to opt out of the TPD discharge, in which case they would be responsible for full payment on the loan.

In terms of the potential impact on borrowers, the most significant change from the IFR is the extension of the automatic TPD discharge process to borrowers who are identified as eligible for a TPD discharge through the data match with SSA. Expanding TPD discharges without an application to individuals identified as TPD by SSA is a logical extension of the IFR. The rationale for providing an automatic discharge to veterans based on a disability determination by VA eliminating unnecessary documentation burdens on individuals determined by a government agency to have total and permanent disabilities that qualify them under statute to a discharge of their loans, particularly when those total and permanent disabilities may pose challenges to providing additional documentation—applies equally to individuals whose TPD has been identified by the SSA.

The Department has been working with VA since 2018 to facilitate a more expedited TPD discharge process and about 22,000 veterans have received approximately $650 million in discharges under the opt-in process in effect prior to the IFR. However, thousands more have not applied for the discharge for which they were eligible. A similar match has been in place with the Social Security Administration since 2016 and approximately 141,000 borrowers have received $8.2 billion in discharges under the opt-in process for the period 2016–2021. While veterans do not have to complete a post-discharge monitoring period, other borrowers who receive a TPD discharge are subject to a three-year post-discharge monitoring period during which a loan discharge could be reversed, so the final number of discharges associated with SSA matches from 2016–2021 may shift somewhat.

The amendments in the IFR and these final regulations provide a quicker, more efficient process and will likely result in many more qualified veterans and individuals SSA determined to have a qualifying disability status receiving the discharge for which they are eligible.

In the past, loan discharge amounts were subject to Federal and, in some States, State tax, which may have dissuaded some veterans or other borrowers who could otherwise navigate the TPD application process from seeking a discharge. However, under the Tax Cuts and Jobs Act of 2017 (Pub. L. 115–97), all Federal tax was eliminated on loan discharges of borrowers based on death or total and permanent disability through 2025. Some small percentage of these eligible veterans or other borrowers may opt out due to concerns over State tax treatment that was not affected by the 2017 Federal law.

In addition, borrowers who are enrolled in a postsecondary institution at the time of the disability determination, or who plan to enroll in the future, may opt to forego loan forgiveness through TPD discharge so that they can continue to receive new Federal student loans for such enrollments. Although a borrower who accepts loan forgiveness through TPD discharge may still be able to borrow in the future, the Department requires such a borrower to obtain a certification from a physician that the borrower is able to engage in substantial gainful employment and to sign a statement acknowledging that the new Direct Loan the borrower receives cannot be discharged in the future on the basis of any impairment present when the new loan is made, unless that impairment substantially deteriorates. In addition, borrowers who want to receive new loans after receiving a TPD discharge based on SSA documentation (or based on a physician's certification) are also required under §§ 674.61(b)(6), 682.402(c)(4) and (5), and 685.213(b)(6) and (7) to resume payment on the discharged loans if they receive a new loan during the three-year post-discharge monitoring period.

Some borrowers may elect to simply forego loan forgiveness to preserve future borrowing opportunities and avoid the need to obtain medical certification regarding their ability to engage in substantial gainful employment. Although borrowers could opt out of an automatic discharge before we issued the IFR, that option was not specified in the regulations. Currently, the opt-out rate for veterans is low, at four percent (approximately 2,100 borrowers of nearly 48,000 opted out from the two rounds of discharges processed since September 2019). Accordingly, the Department expects a small percentage of borrowers who qualify for an automatic discharge based on SSA data to choose to opt out of the discharge.

Nevertheless, this final rule removes barriers and allows many more qualified veterans and other borrowers to receive the TPD discharge to which they are entitled.

Costs, Benefits, and Transfers

The primary parties affected by the IFR and these final regulations will be the veterans and recipients of Social Security benefits who qualify for the discharge; and the taxpayers, through the transfers from the Federal government. Qualifying borrowers will be relieved of a financial burden related to Federal student loans, including the stress associated with repayment or potential defaults and collections.

VA estimates that approximately 150,000 veterans a year will reach a qualifying disability rating over the next 10 years, of which approximately 18 percent will be 50 years old or under and approximately 20 percent will have at least some postsecondary education at the time of their separation from the armed services. Many more will likely use education benefits and loans to pursue postsecondary credentials after separation. Therefore, we expect that thousands of current and future veterans will be affected by these final regulations.

The match with the Social Security Administration is for individuals with Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) benefits indicating that the borrower's next scheduled disability review will occur in no less than five and no more than seven years. The number of borrowers eligible for a discharge depends on the age profile, student loan borrowing history, and repayment history of those with a qualifying disability status. The Department estimates that approximately 21,000 borrowers are newly identified through the SSA match on a quarterly basis, and the quarterly average of borrowers who apply for a discharge and successfully complete the monitoring period is just over 10,000. This is based on borrowers from existing loan cohorts who have already received a qualifying disability status. More borrowers from past loan cohorts could qualify for a disability status in future years, and future cohorts of borrowers will also be affected by these final regulations, so many thousands of borrowers from existing loan cohorts and those in the 10-year budget window will benefit from the opt-out process.

As described in the Paperwork Reduction Act section of this preamble, the elimination of the application will reduce the burden on borrowers who qualify for the automatic TPD discharge. The elimination of the application is a reduction in burden of 5,000 hours and $140,900 for veterans and 11,586 hours and $326,493 for other borrowers, calculated at a wage rate of $28.18.[1]

The increase in transfers for discharges will affect taxpayers, through the Federal government, as more borrowers receive the loan discharge for which they qualify. This effect is described in the Net Budget Impacts section of this Regulatory Impact Analysis. Estimated annualized transfers are $1,685.8 million at a 7 percent discount rate. The servicing contractor that processes disability discharges for the Department could see an increase in the number of discharges to process, which could require system upgrades or other resources. However, they have already adjusted to an opt-out process for veterans and manage the notifications for eligible borrowers identified through the match with the SSA, so we do not expect significant changes would be required. Additionally, the Department is required to pay the cost of SSA providing Medical Improvement Not Expected status as part of the match agreement. This is estimated to cost approximately $8,000 annually, but this cost would be incurred whether or not the results of the match were used for

[1] Bureau of Labor Statistics, Economic News Release Table B–3. Average hourly and weekly earnings of all employees on private nonfarm payrolls by industry sector, seasonally adjusted. Applying average hourly wage rate for October 2019 for total private industry. Available at *www.bls.gov/news.release/empsit.t19.htm.*

the existing opt-in process or the opt-out process established by these final regulations.

Net Budget Impacts

We estimate that the IFR and these final regulations will have a net Federal budget impact over the 2022–2031 loan cohorts of $13.3 billion in outlays and a modification to past cohorts of $20.9 billion, for a total net impact of $34.1 billion. A cohort reflects all loans originated in a given fiscal year. Consistent with the requirements of the Credit Reform Act of 1990, budget cost estimates for the student loan programs reflect the estimated net present value of all future non-administrative Federal costs associated with a cohort of loans. The Net Budget Impact is compared to the 2022 President's Budget baseline (PB2022) that includes the estimated effects of the student loan related provisions in the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and subsequent extensions.

As discussed throughout this preamble, the IFR and these final regulations changed the discharge process of loans for veterans with a service-related disability to an opt-out process instead of the opt-in process associated with the match between the Department and VA prior to the IFR. While the match has been processed since 2018 and the Department has accepted VA determinations of disability status without additional medical information since 2013, a significant percentage of veterans who would qualify for the discharge did not submit applications. Of approximately 58,000 qualifying veterans identified in the match process since 2018, only about 22,000 veterans have received discharges, totaling approximately $650 million. According to Federal Student Aid, approximately 4,000 additional veterans are identified in each quarterly match. For the SSA match, approximately 21,000 additional borrowers are identified in each quarterly match. Since the start of the SSA match with the opt-in process in 2016, approximately $8.2 billion in TPD discharges have been processed.

To estimate the effect of the opt-out procedure, the Department adjusted the disability component of its Death, Disability, and Bankruptcy assumption (DDB), which also includes closed school and borrower defense discharges that have been the subject of recent regulations. To calculate the effect on past cohorts from borrowers currently eligible for the discharge, the Department summarized the balances, collections, and payments associated with veterans identified in the August 2018 match who had not received a disability or death discharge by the end of FY 2019. These potential claims were grouped by population identification (non-consolidated, consolidated not-from-default, and consolidated from default), and offset between the fiscal year of loan origination and fiscal year of disability. Baseline disability claims were also summarized by these factors and an adjustment factor for the increase represented by the potential claims was calculated.

The change to the opt-out approach will increase the level of disability discharges going forward, but not to the same degree as the significant adjustment in FY2020 that captures the build-up of years from those who did not submit applications. To estimate the adjustment for future claims, the Department focused on those newly identified as disabled in 2018 and calculated an adjustment factor based on those who received a discharge versus those borrowers with potential discharges who were in the match but did not submit applications. This adjustment was applied to future cohorts and future disability determinations for borrowers in past cohorts.

A separate adjustment was added to the disability rate to capture the effect of the SSA match switching to opt-out. A review of existing borrowers identified in the SSA match file prior to September 30, 2020, indicates that there are approximately $11.5 billion in outstanding balances of borrowers who would be eligible for a TPD discharge. This confirms that the potential increase in claims from existing and future cohorts is significant. The disability component of the DDB rate was almost doubled to estimate the effect of the SSA match opt-out process, resulting in the increase to $34.1 compared to the $1.96 billion estimated for only VA match in the IFR.

A number of factors may affect the estimated cost of these final regulations. The estimate does not include any reduction in defaults associated with the borrowers' loans, but borrowers' repayment profile will affect the cost of this discharge. For borrowers in the SSA match prior to September 30, 2020, approximately 62 percent of loan disbursements across all loan cohorts have been in default at some point. While the estimate for these final regulations is conservative and does not include any reduction in defaults, we know from prior analysis that a change such as this can have an impact on defaults going forward. As an example, a sensitivity analysis was done for the FY 2020 financial statements that showed that a 5 percent reduction in defaults for the last 5 originated cohorts saves $849 million. The Department will monitor the effect of these final regulations on defaults as the opt-out process is implemented and reflect it in future student loan program costs. Some borrowers may have lacked awareness of the potential discharge or found the application process difficult. To the extent borrowers previously chose to not apply for Federal tax reasons, the tax provision granting that relief is currently scheduled to expire on December 31, 2025. While that tax provision may be renewed, the opt-out rate for future discharges occurring in 2026 and later could increase if it is not. In estimating the net budget impact of these final regulations, the Department reduced the adjustment factor for 2027 and later by 15 percent to account for this. If that provision is extended, or if more of the unfiled applications were for process reasons and did not reflect deliberate tax planning, the opt-out rate may decrease and the costs could go up.

We also assumed that the non-applicants and future qualifying veterans and other borrowers will have a similar profile to applicants in terms of the amount of loans, repayment profiles, and the timing of their qualifying disability. It is possible that those who applied for a discharge as the result of the match had higher balances and thus more incentive to file, especially once the Federal tax consequences were removed. Applicants and non-applicants could vary by debt level, educational attainment, nature of their disability, availability of support, or other factors that could result in the discharges granted through the opt-out process having a different average amount or subsidy cost for the Department.

Another challenge is predicting the effect on future loan cohorts. We assume the level and timing of service-related and other disabilities will remain similar to that for existing borrowers. Clearly, geopolitical and global health factors that the Department cannot predict could affect the number of veterans and other borrowers who qualify for the discharge. Additionally, student loan borrowing among those who may serve in the military and eventually qualify for a discharge could increase depending upon recruitment patterns and further education pursued by those serving in the military. However, it is possible that the relatively generous provisions of the Post 9/11 GI bill will reduce borrowing by more recent and future cohorts of veterans relative to past cohorts. An analysis conducted by Veterans Education Success of National Postsecondary Student Aid Survey (NPSAS) data for the most recent three survey cycles (NPSAS:08, NPSAS:12 and NPSAS:16) concluded that the percentage of veterans borrowing at proprietary schools decreased from 78 percent in NPSAS:08, which surveyed students prior to passage of the Post-9/11 GI Bill, to 42 percent in NPSAS:16, which surveyed students after, and the average annual amount borrowed decreased slightly from $8,680 to $8,630 in 2015 dollars.[2] The percent of veterans borrowing declined slightly in other sectors (38 percent to 32 percent for public 4-year institutions) and the average annual amounts borrowed also declined ($10,410 for 4-year private non-profit in NPSAS:08 to $8,980 in NPSAS:16).[3]

Medical or technical advances that affect the classification of disability could potentially be a factor reducing the estimated costs associated with future loan cohorts. In its report, Trends in Social Security Disability,[4] published in August 2019, SSA indicated a decline in disability incidence since 2010 after an increase between 2007–2010. While SSA identifies economic conditions as a contributing factor to disability incidence, the report indicates that the decline is more significant than would be expected by economic conditions alone. Other factors identified that could affect disability rates in the future include availability of health insurance, a change in the mix of jobs to ones with less physically demanding labor, and policy and administrative procedural changes. For estimation purposes, we assume future cohorts will look like existing cohorts but acknowledge that a number of factors could shift the estimated costs in either direction.

Accounting Statement

As required by OMB Circular A–4 (available at *www.whitehouse.gov/sites/default/files/omb/assets/omb/circulars/a004/a-4.pdf*), in the following table we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of these final regulations. This table provides our best estimate of the changes in annual monetized transfers as a result of these final regulations. Expenditures are classified as transfers from the Federal government to veterans or borrowers eligible for SSDI and/or SSI benefits who qualify for a total and permanent disability discharge.

TABLE 1—ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED EXPENDITURES

[In millions]

Category	Benefits	
Increased share of qualifying veterans or borrowers eligible for SSDI and/or SSI benefits who receive a total and permanent disability discharge	Not Quantified	
Reduced paperwork burden on veterans or borrowers eligible for SSDI and/or SSI benefits whose next disability review is no earlier than five and no later than seven years who qualify for a TPD discharge	7% $[.34]	3% $[.35]
Category	**Transfers**	
Increased loan discharges for veterans or borrowers eligible for SSDI and/or SSI benefits with a qualifying total and permanent disability status	7% $[1,685.8]	3% $[1,138.6]

Paperwork Reduction Act of 1995 (PRA)

As part of its continuing effort to reduce paperwork and respondent burden, the Department provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the PRA (44 U.S.C. 3506(c)(2)(A)). This helps ensure that: The public understands the Department's collection instructions, respondents provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the Department can properly assess the impact of collection requirements on respondents.

Sections 674.61, 682.402, and 685.213 of these final regulations contain information collection requirements. Under the PRA, the Department has submitted a copy of these sections and an Information Collections Request to OMB for its review. These final regulations do not impose any new information collection burden. OMB previously approved the information collection requirements under OMB control number 1845–0065. The forms that are part of this information collection do not change as a result of these final regulations.

Sections 674.61(c), 682.402(c)(9), and 685.213(c)

Discussion: Prior to the IFR, a veteran was required to submit an application with documentation from VA to receive a TPD discharge of a loan under the Federal Perkins Loan Program, Federal Family Education Loan Program, or Federal Direct Loan Program. This information has been collected under OMB approved form control number 1845–0065. The IFR and these final regulations eliminate the application requirement.

Requirements: These changes allow the Secretary to offer a Federal student loan borrower who is identified through a data match with VA as being totally and permanently disabled a discharge of his or her loans without requiring the borrower to submit a separate TPD application. The veteran may elect to opt out of the TPD discharge and will continue to be responsible for repaying the loans.

Burden Calculation: These changes eliminate burden on the veteran. The currently approved form, 1845–0065, estimates 30 minutes (.50 hours) to read, gather documentation, and complete the discharge application. We estimate that

[2] Walter Ochinko and Kathy Payea, Veterans Education Success, *Veteran Student Loan Debt: Data from NPSAS: 08,12,16,* January 2019, Figure 1, p.4. Available at *https://vetsedsuccess.org/veteran-student-loan-debt-7-years-after-implementation-of-the-post-9-11-gi-bill/./*

[3] *Id.*

[4] Social Security Administration, Office of Retirement and Disability Policy, Trends in Social Security Disability, August 2019. Available at *https://www.ssa.gov/policy/docs/briefing-papers/bp2019-01.html.*

annually approximately 10,000 veterans have submitted the application for discharge due to total permanent disability. This regulatory change reduces the burden assessed on the approved form by 5,000 hours (10,000 applicants × .50 hours = 5,000 hours). This will be a one-time reduction in burden. We are not changing the TPD Discharge Application to remove the section applicable to a veteran's request for such a discharge.

1845–0065 DISCHARGE APPLICATION—TOTAL AND PERMANENT DISABILITY

Affected entity	Number of respondents	Number of responses	Hours per response	Total burden	Estimate costs individual $28.18
Individual Veteran	−10,000	−10,000	.50	−5,000	−$140,000
Total	−10,000	−10,000		−5,000	−140,000

Discussion: The TPD discharge regulations currently require a borrower who qualifies for discharge of a Federal Perkins Loan Program, Federal Family Education Loan Program, or Federal Direct Loan Program loan based on total and permanent disability certified by the SSA to submit an application in order to receive a TPD discharge. This information was collected under OMB control number 1845–0065. Under these final regulations, a borrower who qualifies for a TPD discharge based on total and permanent disability as identified by the SSA will no longer be required to submit a TPD application in order to receive a TPD discharge.

Requirements: These changes allow the Secretary to offer a Federal student loan borrower who is identified through SSA data as being totally and permanently disabled a discharge of his or her loans without requiring the borrower to submit a separate TPD application. The borrower may elect to opt out of the TPD discharge and will continue to be responsible for repaying the loans.

Burden Calculation: These changes eliminate burden on the borrower. The currently approved form, 1845–0065, estimates 30 minutes (.50 hours) to read, gather documentation, and complete the discharge application. In 2020 the Department received 23,171 applications from borrowers who were required to submit the application for discharge based on a total permanent disability determination from SSA. This regulatory change reduces the burden assessed on the approved form by 11,586 hours (23,171 applicants × .50 hours = 11,586 hours). This will be a one-time reduction in burden. We are not changing the TPD Discharge Application to remove the section applicable to a borrower's request for a discharge based on SSA documentation.

1845–0065 DISCHARGE APPLICATION—TOTAL AND PERMANENT DISABILITY

Affected entity	Number of respondents	Number of responses	Hours per response	Total burden	Estimated costs individual $28.18
Individual SSA Disability	−23,171	−23,171	.50	−11,586	−$326,493
Total	−23,171	−23,171		−11,586	−326,493

In total, we are revising the total burden assessment for the Information Collection 1845–0065 to be 221,629 respondents, 221,629 responses, and 110,814 hours. There are no changes to any of the forms in this collection.

A Federal agency may not conduct or sponsor a collection of information unless OMB approves the collection under the PRA and the corresponding information collection instrument displays a currently valid OMB control number. Notwithstanding any other provision of the law, no person is required to comply with, or is subject to penalty for failure to comply with, a collection of information if the collection instrument does not display a currently valid OMB control number.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define for-profit institutions as small businesses if they are independently owned and operated, are not dominant in their field of operation, and have total annual revenue below $7,000,000. Non-profit institutions are defined as small entities if they are independently owned and operated and not dominant in their field of operation. Public institutions are defined as small organizations if they are operated by a government overseeing a population below 50,000.

This regulation would not affect any small entities. Small entities do not qualify as borrowers under these Federal loan programs, nor do small entities provide or fund Federal loans or their discharge.

Intergovernmental Review

This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

Assessment of Educational Impact

In the IFR we requested comments on whether the regulations would require transmission of information that any other agency or authority of the United States gathers or makes available. Based on the response to the IFR and our own review, we have determined that these final regulations do not require transmission of information that any other agency or authority of the United States gathers or makes available.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or PDF. To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

List of Subjects

34 CFR Part 674

Loan programs—education, Reporting and recordkeeping, Student aid.

34 CFR Part 682

Administrative practice and procedure, Colleges and Universities, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

34 CFR Part 685

Administrative practice and procedure, Colleges and Universities, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

Annmarie Weisman,

Deputy Assistant Secretary for Policy, Planning, and Innovation, Office of Postsecondary Education.

Accordingly, the interim rule amending 34 CFR parts 674, 682, and 685, which published on November 26, 2019 (84 FR 65000), is adopted as final with the following changes:

PART 674—FEDERAL PERKINS LOAN PROGRAM

■ 1. The authority citation for part 674 continues to read as follows:

Authority: 20 U.S.C. 1070g, 1087aa–1087hh; Public Law 111–256, 124 Stat. 2643; unless otherwise noted.

■ 2. Section 674.61 is amended by:
■ a. In paragraph (c)(2)(iv), removing ''The veteran'' and adding in its place ''Except as provided in paragraph (d) of this section, the veteran''.
■ b. Removing paragraph (c)(2)(x).
■ c. Redesignating paragraphs (d) and (e) as paragraphs (f) and (g), respectively.
■ d. Adding new paragraphs (d) and (e).
■ e. Removing the parenthetical authority citation at the end of the section.

The additions read as follows:

§ 674.61 Discharge for death or disability.

* * * * *

(d) *Discharge without an application.* (1) The Secretary may discharge a loan under this section without an application or any additional documentation from the borrower if the Secretary—

(i) Obtains data from the Department of Veterans Affairs (VA) showing that the borrower is unemployable due to a service-connected disability; or

(ii) Obtains data from the Social Security Administration (SSA) showing that the borrower qualifies for SSDI or SSI benefits and that the borrower's next scheduled disability review will be no earlier than five nor later than seven years.

(2) [Reserved]

(e) *Notifications and return of payments.* (1) After determining that a borrower qualifies for a total and permanent disability discharge under paragraph (d) of this section, the Secretary sends a notification to the borrower informing the borrower that the Secretary will discharge the borrower's title IV loans unless the borrower notifies the Secretary, by a date specified in the Secretary's notification, that the borrower does not wish to receive the loan discharge.

(2) Unless the borrower notifies the Secretary that the borrower does not wish to receive the discharge, the Secretary notifies the borrower's lenders that the borrower has been approved for a disability discharge.

(3) In the case of a discharge based on a disability determination by VA—

(i) The notification—

(A) Provides the effective date of the disability determination by VA; and

(B) Directs each institution holding a Defense, NDSL, or Perkins Loan made to the borrower to discharge the loan; and

(ii) The institution returns to the person who made the payments any payments received on or after the effective date of the determination by VA that the borrower is unemployable due to a service-connected disability.

(4) In the case of a discharge based on a disability determination by the SSA—

(i) The notification—

(A) Provides the date the Secretary received the SSA notice of award for SSDI or SSI benefits; and

(B) Directs each institution holding a Defense, NDSL, or Perkins Loan made to the borrower to assign the loan to the Secretary within 45 days of the notice described in paragraph (e)(2) of this section; and

(ii) After the loan is assigned, the Secretary discharges the loan in accordance with paragraph (b)(3)(v) of this section.

(5) If the borrower notifies the Secretary that they do not wish to receive the discharge, the borrower will remain responsible for repayment of the borrower's loans in accordance with the terms and conditions of the promissory notes that the borrower signed.

* * * * *

PART 682—FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM

■ 3. The authority citation for part 682 continues to read as follows:

Authority: 20 U.S.C. 1071–1087–4, unless otherwise noted.

■ 4. Section 682.402 is amended by:
■ a. In paragraph (c)(9)(iv), removing ''The veteran'' and adding in its place ''Except as provided in paragraph (c)(10) of this section, the veteran''.
■ b. Removing paragraph (c)(9)(xiii).
■ c. Adding paragraphs (c)(10) and (11).
■ d. Removing the parenthetical authority citation at the end of the section.

The additions read as follows:

§ 682.402 Death, disability, closed school, false certification, unpaid refunds, and bankruptcy payments.

* * * * *

(c) * * *

(10) *Discharge without an application.* (i) The Secretary may discharge a loan under this section without an application or any additional documentation from the borrower if the Secretary—

(A) Obtains data from the Department of Veterans Affairs (VA) showing that the borrower is unemployable due to a service-connected disability; or

(B) Obtains data from the Social Security Administration (SSA) showing that the borrower qualifies for SSDI or SSI benefits and that the borrower's next scheduled disability review will be no earlier than five nor later than seven years.

(ii) [Reserved]

(11) *Notifications and return of payments.* (i) After determining that a borrower qualifies for a total and permanent disability discharge under paragraph (c)(10) of this section, the Secretary sends a notification to the borrower informing the borrower that the Secretary will discharge the borrower's title IV loans unless the borrower notifies the Secretary, by a date specified in the Secretary's notification, that the borrower does not wish to receive the loan discharge.

(ii) Unless the borrower notifies the Secretary that the borrower does not wish to receive the discharge, the Secretary notifies the borrower's loan holders that the borrower has been approved for a disability discharge. With this notification the Secretary provides the effective date of the determination by VA or the date the Secretary received the SSA notice of award for SSDI or SSI benefits, and directs the holder of each FFELP loan made to the borrower to submit a disability claim to the guaranty agency in accordance with paragraph (g)(1) of this section.

(iii) If the claim meets the requirements of paragraph (g)(1) of this section and § 682.406, the guaranty agency pays the claim and must—

(A) Discharge the loan, in the case of a discharge based on data from VA; or

(B) Assign the loan to the Secretary, in the case of a discharge based on data from the SSA.

(iv) The Secretary reimburses the guaranty agency for a disability claim after the agency pays the claim to the lender.

(v) Upon receipt of the claim payment from the guaranty agency, the loan holder returns to the person who made the payments any payments received on or after—

(A) The effective date of the determination by VA that the borrower is unemployable due to a service-connected disability; or

(B) The date the Secretary received the SSA notice of award for SSDI or SSI benefits.

(vi) For a loan that is assigned to the Secretary for discharge based on data from the SSA, the Secretary discharges the loan in accordance with paragraph (c)(3)(iv) of this section.

(vii) If the borrower notifies the Secretary that they do not wish to receive the discharge, the borrower will remain responsible for repayment of the borrower's loans in accordance with the terms and conditions of the promissory notes that the borrower signed.

* * * * *

PART 685—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

■ 5. The authority citation for part 685 continues to read in part as follows:

Authority: 20 U.S.C. 1070g, 1087a, *et seq.,* unless otherwise noted.

* * * * *

■ 6. Section 685.213 is amended by:

■ a. In paragraph (b)(1) introductory text, removing the words ''To qualify'' and adding, in their place, ''Except as provided in paragraph (d)(2) of this section, to qualify''.

■ b. In paragraph (c)(1) introductory text, removing ''To qualify'' and adding in their place ''Except as provided in paragraph (d)(1) of this section, to qualify''.

■ c. Removing paragraph (c)(1)(v).

■ d. Adding paragraphs (d) and (e).

■ e. Removing the parenthetical authority citation at the end of the section.

The additions read as follows:

§ 685.213 Total and permanent disability discharge.

* * * * *

(d) *Discharge without an application.* (1) The Secretary may discharge a loan under this section without an application or any additional documentation from the borrower if the Secretary—

(i) Obtains data from the Department of Veterans Affairs showing that the borrower is unemployable due to a service-connected disability; or

(ii) Obtains data from the Social Security Administration (SSA) showing that the borrower qualifies for SSDI or SSI benefits and that the borrower's next scheduled disability review will be no earlier than five nor later than seven years.

(2) [Reserved]

(e) *Notification to the borrower.* (1) After determining that a borrower qualifies for a total and permanent disability discharge under paragraph (d) of this section, the Secretary sends a notification to the borrower informing the borrower that the Secretary will discharge the borrower's title IV loans unless the borrower notifies the Secretary, by a date specified in the Secretary's notification, that the borrower does not wish to receive the loan discharge.

(2) Unless the borrower notifies the Secretary that the borrower does not wish to receive the discharge the Secretary discharges the loan—

(i) In accordance with paragraph (b)(4)(iii) of this section for a discharge based on data from the SSA; or

(ii) In accordance with paragraph (c)(2)(i) of this section for a discharge based on data from VA.

(3) If the borrower notifies the Secretary that they do not wish to receive the discharge, the borrower will remain responsible for repayment of the borrower's loans in accordance with the terms and conditions of the promissory notes that the borrower signed.

* * * * *

[FR Doc. 2021–18081 Filed 8–20–21; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 9

RIN 2900–AR24

Extension of Veterans' Group Life Insurance (VGLI) Application Periods in Response to the COVID–19 Public Health Emergency

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, without change, an interim final rule amending the Department of Veterans Affairs (VA) regulation regarding Veterans' Group Life Insurance (VGLI). The amendment was necessary in order to extend the deadline for former members to apply for VGLI coverage following separation from service to address the inability of former members directly or indirectly affected by the 2019 Novel Coronavirus (COVID–19) public health emergency to purchase VGLI.

DATES: *Effective* September 22, 2021.

FOR FURTHER INFORMATION CONTACT: Paul Weaver, Department of Veterans Affairs Insurance Service (310/290B), 5000 Wissahickon Avenue, Philadelphia, PA 19144, (215) 842–2000, ext. 4263. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: An interim final rule amending VA's regulation regarding the deadline for former members to apply for VGLI coverage following separation from service was published in the **Federal Register** on June 9, 2021 (86 FR 30541).

VA provided a 30-day comment period that ended on July 9, 2021. No comments were received. Based on the rationale set forth in the interim final rule, we now adopt the interim final rule as a final rule without change.

Administrative Procedure Act

In the June 9, 2021, **Federal Register** notice, VA determined that there was a basis under the Administrative Procedure Act for issuing the interim final rule with immediate effect. We invited and did not receive public comment on the interim final rule. This document adopts the interim final rule as a final rule without change.

Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and